

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN MCBREARTY;
CARL MCBREARTY; and
NINA MCBREARTY

v.

CIVIL ACTION NO. 02-4553

DELAWARE COUNTY SHERIFFS
DEPARTMENT; NORWOOD
BOROUGH POLICE DEPARTMENT;
DELAWARE COUNTY; and
MEDIA BOROUGH

ORDER

AND NOW, this ____ day of _____, 2003, upon consideration of Motion of Defendant, Norwood Borough Police Department, to Compel Plaintiffs, Nina McBrearty, John McBrearty, and Carl McBrearty, to Respond to Defendant's Requests for Production of Documents, it is hereby **ORDERED** and **DECREED** that said Motion is **GRANTED**. Plaintiffs are hereby ordered to serve Defendant with full, complete and specific verified responses the Requests for Production of Documents within ten (10) days of the date of this Order or suffer sanctions upon further application to the Court.

Pursuant to Rule 37(a)(4)(A), Plaintiffs are further **ORDERED** to pay to the moving party the amount of \$300, representing reasonable attorneys' fees and expenses incurred in making this motion.

BY THE COURT

J.

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**MOTION OF DEFENDANT, NORWOOD BOROUGH POLICE DEPARTMENT,
TO COMPEL THE PLAINTIFFS' RESPONSES TO
DEFENDANT'S REQUESTS FOR PRODUCTION OF DOCUMENTS**

Defendant, Norwood Borough Police Department, by and through its counsel, Margolis Edelstein, hereby requests this Honorable Court to enter an Order compelling the Plaintiffs, Nina McBrearty, John McBrearty, and Carl McBrearty, to respond to the moving Defendant's Requests for Production of Documents and, in support thereof, avers the following:

1. The Defendant, Norwood Borough Police Department, served the Plaintiffs, Nina McBrearty, John McBrearty, and Carl McBrearty, with Requests for Production of Documents on June 23, 2003. *See* a true and correct copy of Defendant's correspondence dated June 23, 2003, enclosing Defendant's Requests for Production of Documents, attached hereto as Exhibit "A."

2. Federal Rule of Civil Procedure 34 provides that the party upon whom Requests for Production of Documents is served shall serve a written response within thirty (30) days after service thereof.

3. The Plaintiffs have not responded to the Defendant's Requests for Production of Documents within the thirty (30) day requirement.

4. The Requests for Production of Documents served by Defendant are relevant and necessary.

5. The Defendant will be prejudiced if full and complete responses to the Requests for Production of Documents are not received.

6. Defendant, Norwood Borough Police Department, respectfully requests, pursuant to Rule 37(a)(4)(A), that the Plaintiffs pay to the moving party the amount of \$300, representing reasonable attorneys' fees and expenses incurred in making this motion.

WHEREFORE, Defendant, Norwood Borough Police Department, respectfully requests this Honorable Court to enter an Order compelling Plaintiffs to serve full, complete and specific verified responses to Defendant's Requests for Production of Documents within ten (10) days of the date of the Court's Order or suffer sanctions upon further application to the Court.

Respectfully submitted,

MARGOLIS EDELSTEIN

By: _____

Carl J. DiCampi, Esquire
Identification No. 87004
Christopher J. Pakuris, Esquire
Identification No. 31179

The Curtis Center, Fourth Floor
Independence Square West
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Attorneys for Defendant,
Norwood Borough Police Department

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MEMORANDUM OF LAW

Defendant, Norwood Borough Police Department, incorporates herein the averments and allegations set forth in its Motion to Compel Plaintiffs' Responses to Defendant's Requests for Production of Documents, as though same were fully set forth herein at length.

Respectfully submitted,

MARGOLIS EDELSTEIN

By: _____

Carl J. DiCampli, Esquire
Identification No. 87004
Christopher J. Pakuris, Esquire
Identification No. 31179

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Attorneys for Defendant,
Norwood Borough Police Department

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion of Defendant, Norwood Borough Police Department, to Compel Plaintiffs' Responses to Defendant's Requests for Production of Documents, has been served this _____ day of August, 2003, by first-class United States mail, postage pre-paid, addressed as follows:

John McBrearty
928 Delview Drive
Folcroft, PA 19032
Plaintiff, *pro se*

Nina McBrearty
Amosland Road
Rosedale Apartments
Holmes, PA 19043-1454
Plaintiff, *pro se*

Carl McBrearty
928 Delview Drive
Folcroft, PA 19032
Plaintiff, *pro se*

Thomas C. Gallagher, Esquire
Holsten & Associates
One Olive Street
Media, PA 19063
Attorney for Defendants, Delaware County
and Delaware County Sheriffs Department

Carl J. DiCampli